

FOIA: STANDARD PROCESS and PROCEDURES for OSCP

The Freedom of Information Act (FOIA), found in Title 5 section 552 of the United States Code, provides any person the right to access public records (unless they can be withheld under one of the nine exemptions in the act). A FOIA request may be submitted to EPA through EPA's FOIA website (FOIAonline), by email, fax, postal mail or hand delivery.

FOIAonline

FOIAonline operates using Workflow Assignments that include 3 categories for cases that are entered into FOIA online. The names of offices and responsible parties in each office are preloaded into the FOIAonline system.

- Unassigned Cases - Cases that are assigned to OSCP will appear in OSCP's FOIA Coordinator's "unassigned cases" queue until they are assigned to a specific division or accepted into the "my cases" queue by the OSCP FOIA Lead.
- My cases – Cases that are assigned to a division lead will move from the "unassigned cases" queue to the queue of that lead until the case is completed and closed out. Cases that are assumed by the OSCP FOIA lead will move from "unassigned cases" to the "my cases" queue of the OSCP FOIA lead until the case is completed and closed out.
- Assigned Cases - Cases that have been assigned can be viewed in the "assigned cases" queue of the individual who made the assignment, in order to check the status or check on where/who a case was assigned to etc.

Assignments are received in the non-assigned queue of FOIA online. FOIA request that are received can only be assigned and/or transferred by the OCSPP Lead FOIA Coordinator to a single program office or division lead. The designated assignee must be the one to close out the FOIA request.

Tasks can be assigned by the OCSPP Lead FOIA Coordinator to any number of division offices within the agency but each task detail must be closed out by the assignee or the owner of the case before a request can be closed out in FOIA online. Task can also be made by the program office FOIA Coordinators. This tasks detail can only be made internally within the OCSPP program offices.

- Manually created tasks can only be created by the lead of the request
- Tasks assigned to an individual can be accessed in the individuals "my cases" queue
- Tasks assigned to a "lower level" can be modified from the task assignee's "assigned cases" queue
- Tasks assigned to a "lateral level" (ie. From one division lead to another or from one office lead to another) can no longer be accessed by the task assignee
- Tasks can be tracked with the "assigned task" tab on the "request task and details screen"

FOIA Online contains a tracking system that includes 5 phases:

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- Submitted - The initial phase of creating and sending a FOIA to an agency and waiting for the agency staff to open it
- Evaluation – The time from which the FOIA Headquarters Agency Staff open and review a request for the first time
- Assignment – Such time as FOIA/HQ agency staff have chosen an organization or individual to work on the case and have made the initial assignment
- Processing – When a record has first been uploaded to a case file (or an interim response has been provided)
- Closed – After the response has been uploaded in FOIA Online and sent to the requestor

Note: Each phase can be viewed and tracked by the requestor and/or other public user

FOIA Online Public User Features Include Capability to:

- Submit FOIA requests
- Search and view FOIA requests and responses
- Track progress
- Communicate with Agency staff
- File an appeal

FOIA Online Agency User Features Include Capability to:

- Receive FOIA requests
- Assign FOIA requests
- Track Progress
- Upload, approve and post documents
- Calculate fees
- Consult with other agencies
- Generate reports

PROCESS

1 – A FOIA Request is received either through FOIA online or by mail, e-mail, fax or hand delivery and is entered into FOIA Online by HQ FOIA staff.

- Each FOIA request is typically received by the Agency FOIA office in the OA reviewed to verify that it is a FOIA request and assigned to an AA-ship based on its content
- All FOIA requests must be in writing and reasonably describe the records the requester is seeking

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- If a request is received directly by a program office or division it is entered into FOIA Online and either accepted or reassigned if it should be responded to by a different Office or Agency program area
- The following are not handled under FOIA: non-agency records; answers to specific questions; oral requests; personal records of employees; readily available material; Privacy Act requests; requests from other federal agencies, GAO or Congress

2 – The FOIA request is reviewed, assessed and assigned to the appropriate AA-ship by the Agency FOIA Officer (AFO). After the AFO assigns the request to a division, the request is then received in FOIA Online by the lead coordinator (OCSPP/IO FOIA Lead Coordinator). The lead coordinator reviews the request, performs a search on the subject matter, and determines the appropriate OCSPP Program Office (OPPT, OPP or OSCP) who then take the lead in preparing the response.

- For any FOIA request that is in need of re-assignment, the program office FOIA Coordinators will make a request (by e-mail) to have the OCSPP lead coordinator transfer the FOIA request to the correct division (must provide justification for transfer) or sent back to the AFO for reassignment to the Regional office

3 – Once a request is reviewed and assigned to the correct division or program office it is reviewed by the program office FOIA coordinator who then assigns it to a single individual as the lead to the response.

- In isolated cases requiring input from more than one division, “tasks” are assigned to each of multiple divisions that will be involved in the providing the response
- In cases that require input from multiple divisions, a lead division will be assigned the case and will be responsible for sending lateral “tasks” to other division leads (in instances where limited information is required from another division or office)

4 – OSCP’s FOIA Coordinator works with their upper management to either assign the request to an individual subject matter expert (SME) in cases where one individual will be handling the majority of the response, or assign tasks to multiple individuals who provide the requested information/material to OSCP’s FOIA Coordinator or division lead who will coordinate the response.

5 – OSCP’s FOIA Coordinator, upper management and Division staff (SMEs) processes the response as required including:

- Analyzing the request
- Locating records (hard copy, electronic files and e-mails including archived files, EPA webpostings and dockets)
- Contacting requestors for clarification as needed; reviewing records for possible release and holding exempt material

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- Estimating time involved with gathering responsive material and estimating fees
- Preparing material for response
- Attaching the FOIA response letter

6 – Timeframes associated with a FOIA response

- The first date in the timeline is the date a FOIA request is received (recorded by the system)
- The “perfected” date of a FOIA is the date that it has been evaluated and either sent to an office for assignment. In many cases the requestor may need to be contacted for additional information before this occurs
- The Office FOIA lead then has 10 days to assign the case (including self assignment placing it in “my cases”)
- An initial determination of how a request will be addressed and what will be provided must be made and provided to the requester within 20 workdays after receipt by the responding office
- The 20 day timeframe may be extended up to 10 additional days if there is a need to search for and collect records from other offices, examine a large amount of information or there is need to consult with another Agency
- If a FOIA request has not been responded to or put on hold (clock stopped) or extended by its original due date then it becomes overdue and will be flagged in the FOIAonline system

Fee Information

- The FOIA office makes an initial determination about whether or not a request is billable, whether any exemptions apply and whether fee waiver are accepted or denied.
- Once assigned to the correct division, the division FOIA lead estimates search review and copying costs (If the total is less than \$14 the requester is not charged).
- Fees are calculated using averaged hourly rates for EPA employees responding to request and categories for the requester.
- Fees may be charged for the search of records even if there is no disclosure or release of records.

FOIAonline calculates fees using average rates as follows:

- Clerical staff is billed at \$4.00 per 15 minutes of search and review time
- Professional staff is billed at \$7.00 per 15 minutes of search and review time
- Managerial staff is billed at \$10.25 per 15 minutes of search and review time
- Assurance of payment of fees estimated to be above \$25.00 should be obtained before the commencement of any work
- Any services such as certification of documents, priority mailing or other services not specifically listed will be billed for the direct costs

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- Disposition rules -- If a reviewer is required to review a case, at least one reviewer other than the assigned user must be added as a reviewer.

Full Grant: Reviewer is required and at least one record must be marked for publication

Partial Grant/Partial Denial: Reviewer is required and at least one record must be marked for publication

Full Denial Based on Exemptions: Reviewer is required and at least one record must be uploaded with exemptions applied

No Records, Other, Improper FOIA Request for Other Reasons, All Records referred to Another Agency: Only a reviewer is required

No Reviewer or Uploaded Required: Request withdrawn; fee-related reason; records not reasonable described; not an agency record; duplicate request

Closing out a FOIA (request)

- Can only be initiated/completed by the request assignee
- All tasks must complete and closed
- All responsive records have been uploaded
- Reviewers have been added
- Admin costs must be complete and closed
- Record for public release must be marked
- Make final disposition
- Perform peer reviews on the case
- Send final disposition notification to close the request
- Prepare the release letter (standardized language tailored to specific request)

Note: Once the closeout process is "initiated" in the system, it is not possible to reverse or reset the closeout process in FOIAonline.

OSCP FOIA Contacts

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